

Attachment D



Hon. James "Jay" C. Francis

IV (Ret.)

MEDIATOR

ARBITRATOR

COURT-APPOINTED NEUTRAL (REFEREE/SPECIAL
MASTER)

NEUTRAL EVALUATOR

HEARING OFFICER

Hon. James "Jay" C. Francis IV (Ret.) is a seasoned ADR professional and former jurist who joined JAMS after serving for more than thirty years as a United States Magistrate Judge in the Southern District of New York, including a two-year term as Chief Magistrate Judge.

During his tenure on the bench, Judge Francis was responsible for conducting pretrial proceedings, mediating settlements, and presiding over trial in thousands of cases covering a wide array of practice areas and industries. Among the most notable of his achievements are his successful resolution of claims brought by the Federal Housing Finance Agency (FHFA) against numerous banking institutions in the wake of the 2008 financial crisis, some of which settled for well over \$1 billion, his settlement of securities and commodities fraud claims arising from the collapse of the global futures brokerage, MF Global and, in the civil rights arena, his settlement of a class action together with scores of individual claims brought against the City of New York in the wake of arrests made at the 2004 Republican National Convention. He also mediated the infamous case brought by Tom Brady and the NFL Players Association against the National Football League, commonly known as "Deflategate." In hundreds of other matters, he guided the parties to resolution without trial.

Judge Francis' deep-seated legal experience covers an array of complex business and commercial, class action and mass tort, construction, civil rights, employment and labor law, financial markets, insurance, intellectual property, product liability, personal injury, professional liability, and securities claims, among others, across a wide swath of industries.

He is also a nationally recognized authority in the field of electronic discovery. He has spoken on the topic at the judicial conferences of both the Third and Ninth Circuits, as well as at programs such as the Georgetown Law School Advanced eDiscovery Institute and the ABA Cross-Border Institute. Judge Francis has also served as a member of the distinguished faculty of the Sedona Conference eDiscovery Negotiation Training program and has been a featured speaker at annual meetings of the conference.

Prior to his appointment as a Magistrate Judge, Judge Francis was an attorney with the impact litigation unit of the Legal Aid Society of New York. There, he litigated class actions and test cases in the areas of housing and education. He also established the Disability Rights Unit to provide legal services for persons with physical and mental disabilities.

ADR Experience and Qualifications

- JAMS Neutral: Mediator, Arbitrator, Referee/Special Master, Neutral Evaluator and Hearing Officer.
- Electronic Discovery:
 - Author of judicial opinions concerning e-discovery in numerous cases including: *In re Warrant to Search a Certain E-Mail Account Controlled and Maintained by Microsoft Corp.* (involving issuance of warrant authorizing American law enforcement to access emails stored on server in Ireland); *Chen-Oster v. Goldman, Sachs & Co.* (addressing issues of proportionality, sampling and phased electronic discovery in employment discrimination class action); *Rowe Entertainment, Inc. v. William Morris Agency* (involving issuance of first comprehensive analysis of cost-shifting in electronic discovery in alleged race discrimination matter); *Cat3, LLC v. Black Lineage, Inc.* (addressing relationship in trademark spoliation case between federal rule governing sanctions and court's inherent power); *Convolve, Inc. v. Compaq Computer Corp.* (addressing obligation to preserve ephemeral data in alleged patent infringement matter); *Orbit One Communications, Inc. v. Numerex Corp.* (applying principles governing triggering, comprehensiveness and implementation of litigation holds); and *Richard Green (Fine Paintings) v. McClendon* (supervising discovery and ruling on sanctions for failure to preserve electronically stored information).
 - Special Master overseeing electronic discovery issues and ruling on ESI protocol, technology-assisted review process, and key word search in antitrust litigation.
- Educator: Judge Francis served as a Distinguished Lecturer at the City University of New York School of Law and as an Adjunct Professor at Fordham University School of Law. In recognition of his ability to settle cases, he was asked to teach mediation skills to members of the Egyptian judiciary in Cairo under the auspices of the ABA Rule of Law Initiative, an international development program that promotes justice, economic opportunity and human dignity through the rule of law. He has also taught mediation skills to lawyers and judges in Bahrain under a program sponsored by the U.S. Department of Commerce.

Representative Matters

- **Antitrust & Competition**

- Neutral Analysis: provided feedback to counsel preparing for federal Court of Appeals oral argument in major antitrust case involving software market.
- *In re Namenda Direct Purchaser Antitrust Litigation*: Plaintiff pharmacies sued manufacturers of an Alzheimer's drug claiming that defendants used unlawful practices to force purchasers to switch to a newly patented variant of the product. Judge Francis was responsible for dealing with pretrial discovery disputes.
- *U.S. Information Systems, Inc. v. International Broth. of Elec. Workers Local Union Number 3, AFL-CIO*: Electrical contractors employing CWA electricians sued the International Brotherhood of Electrical Workers (IBEW) and contractors employing IBEW electricians, alleging antitrust conspiracy. Judge Francis supervised discovery, ruled on the admissibility of expert reports and issued a recommendation, subsequently adopted, that judgment be rendered for defendants.

- **Aviation**

- *MFS/Sun Life Trust-High Yield Series v. Van Dusen Airport Services Co.*: Bondholders of an airport services company alleged that the leveraged buyout of the company constituted a fraudulent conveyance. Judge Francis was responsible for all aspects of the action and entered judgment for defendants after a bench trial.
- *Fine v. Facet Aerospace Products Co.*: In case arising from crash of single engine aircraft, Judge Francis ruled on discoverability of design of parts similar to allegedly defective part.

- **Business Commercial**

- Breach of Contract**

- Arbitration: Chair of tripartite arbitral panel involving dispute over payment of attorney's fees.
- Arbitration: Emergency Arbitrator on motion for injunctive relief involving auction of artwork to satisfy debt.
- Arbitration: matter in which claimant alleged it was owed \$5 million service fee for procuring funding transaction.
- Arbitration: dispute over law firm's alleged entitlement to success fee pursuant to provisions of client engagement letter.
- Arbitration: member of appellate panel reviewing arbitrator's decision in case involving contract dispute over calculation of fair market value of business (in tens of billions of dollars) for purposes of acquisition pricing.
- Arbitration: involving dispute over earn-out following corporate acquisition.
- Mediation: alleged claims of breach of contract and fraud brought by home seller against auction house.

- Mediation: disputes over earn-outs and use of confidential information arising out of asset purchase agreement in Cannabis industry.
- Mediation: claim for advisory fee arising out of financing transaction.
- Mediation: claims arising out of alleged breach of stock transfer agreement, including right to an appraisal.
- Mediation: breach of contract claims involving disputed length of services agreement.
- Mediation: dispute regarding contract that allegedly gave executive share of company on his departure.
- Mediation: dispute involving contract for provision of acquisition of talent in connection with sports marketing event.
- Mediation: dispute regarding alleged misappropriation of funds by chief financial officer of investment company.
- Mediation: claims involving non-competition, non-disclosure and non-solicitation violations brought against former member of LLC who went to work for competitor.

General Business

- Arbitration: Chair of tripartite arbitral panel in matter involving allegations of multi-million-dollar investment fraud.
- Arbitration: Chair of AAA-administered tripartite arbitral panel concerning claims of alleged fraud and securities law violations in company's buy-back of executive's shares.
- Arbitration: involving determination whether non-competition agreement in investment industry was enforceable in light of its scope and duration.
- Mediation: claims by Internal Revenue Service for civil penalties for alleged willful failure to file a Report of Foreign Bank and Financial Accounts.
- Mediation: dispute concerning fee allegedly owed for providing financial advisory and investment banking services in connection with possible sale of corporate subsidiary.
- Mediation: contractual disputes between integrated healthcare system and provider of primary care services, including disputes over fee calculation and branding.
- *Northern Shipping Funds I, LLC v. Icon Capital Corp.*: Plaintiff and defendant allegedly agreed to jointly arrange for a \$70-million loan to a third-party marine services company. Several disputes arose when the third-party withdrew from the deal and the defendant unilaterally settled with it. Judge Francis was responsible for all aspects of the case and entered judgment following a bench trial.
- *Alexander Interactive, Inc. v. Adorama, Inc.*: Defendant retailer engaged plaintiff web design and engineering firm to redesign its website. Defendant was dissatisfied with the results and refused to pay, so plaintiff brought action for breach of contract. Judge Francis was responsible for pretrial matters and decided issues of third-party discovery, discoverability of source code and confidentiality.
- *Soroof Trading Development Co., Ltd. v. GE Fuel Cell Systems, LLC*: Plaintiff paid \$1 million for the right to sell defendant's fuel cells in Saudi Arabia. Plaintiff alleged that defendant knew at the time of contracting that the fuel cells would likely not be marketable. Judge

Francis issued pretrial rulings on issues including the adequacy of 30(b)(6) witnesses and the addition of a subsidiary as a defendant.

- *GSGSB, Inc. v. New York Yankees*: Architect sued the Yankees for failure to pay for work performed in designing luxury boxes for Yankee Stadium. Defendant asserted that agreement provided for payment only if the project went forward, which it did not. Judge Francis conducted jury trial that resulted in plaintiff's verdict.
- *Riddell Sports Inc. v. Brooks*: Sporting goods company sued former president for breach of contract and breach of fiduciary duty alleging that he divulged confidential information and assisted adverse parties in litigation against plaintiff. Judge Francis was responsible for pretrial matters and ruled on issues including possession, custody and control of documents sought in discovery.

- **Civil Rights**

- Mediation: conducted binding mediation to decide open issue in class settlement of civil rights case involving invasive searches of visitors to jail facility.
- Mediation: civil rights action in which plaintiff alleged he was assaulted by police officers during traffic stop.
- Mediation: civil rights action in which plaintiff alleged false arrest and excessive force by police during march in support of Black Lives Matter.
- *MacNamara v. City of New York*: This class action, together with scores of individual cases, alleged a variety of constitutional violations in connection with arrests during the 2004 Republican National Convention. Judge Francis supervised all pretrial proceedings and ultimately engineered a comprehensive settlement.
- *Burka v. New York City Transit Authority*: The plaintiff class challenged drug testing of employees by a municipal agency. Judge Francis ruled on discovery disputes and mediated a settlement, as part of which he conducted hearings for plaintiffs dissatisfied with their presumptive awards.
- *Nunez v. City of New York*: In this class action, plaintiff inmates in city jails alleged systematic excessive force by correction officers. Judge Francis oversaw settlement of the action.
- *Tachiona v. Mugabe*: Plaintiffs in this action were citizens of Zimbabwe who alleged human rights violations by President Mugabe and his political party. Following defendants' failure to answer, Judge Francis held a hearing and recommended awards of damages.
- *Handberry v. Thompson*: This class action challenged the failure of New York City to provide appropriate educational services to disabled youth in the city's correctional system. Judge Francis mediated a settlement, including the appointment of a monitor for compliance.
- *White v. Schriro*: In this and numerous related cases, inmates alleged that jail beds caused discomfort amounting to a constitutional violation. Judge Francis issued recommendations for the disposition of motions to dismiss in each case.
- *New York State National Organization for Women v. Cuomo*: This was a class action challenging the failure of the New York State Division of Human Rights to act on

discrimination complaints in a timely manner. Judge Francis supervised all pretrial proceedings.

- *Housing Works, Inc. v. Turner*: Nonprofit entity alleged that City of New York declined to renew contract in retaliation for statement critical of mayoral policies. Summary judgment was denied based on Judge Francis' recommendation.
- *Rowe Entertainment, Inc. v. William Morris Agency, Inc.*: Minority concert promoters brought action against promoters and talent agencies, alleging conspiracy to exclude plaintiffs from market on basis of race. Judge Francis conducted pretrial proceedings and issued decision shifting discovery costs.
- *United States v. 111 East 88th Partners*: Government brought action under Fair Housing Act alleging that landlord denied tenant's right to keep a service dog in apartment. Judge Francis supervised discovery and mediated settlement of case.

- **Class Action & Mass Tort**

- Special Master: overseeing implementation of consent decree in class action concerning remediation of mold conditions in New York City Housing Authority (NYCHA) apartments.
- Mediation: mediated consumer class action involving ticket company's provision of replacement options for events canceled due to COVID-19 pandemic.
- Mediation: settled mass arbitration claims involving alleged wage and hour violations by ride share company.
- *Leach v. NBC Universal Television Group*: Plaintiffs were parking production assistants who alleged that the defendant media company failed to pay them overtime in connection with services rendered during production of television series. In this and several similar cases, Judge Francis facilitated settlement of the class and collective actions and conducted the settlement approval process.
- *Coultrip v. Pfizer, Inc.*: Pharmaceutical sales representatives brought actions alleging they had been misclassified as exempt from minimum wage and overtime requirements. Judge Francis conducted all proceedings in this class action, but case was dismissed on consent after dispositive decision by Supreme Court of the United States.
- *Blagman v. Apple, Inc.*: Plaintiff, copyright owners, brought class action against digital music retailers, alleging infringing sales. Judge Francis supervised all pretrial proceedings, including amendment of the complaint and foreign discovery. The case was resolved by settlement.
- *Freedman v. Weatherford International Ltd.*: The plaintiff class in this action asserted that defendant issued false financial statements over five years. Judge Francis supervised pretrial proceedings and issued determinations regarding the adequacy of a computerized search for documents and the discoverability of an internal investigation by counsel.

- **Construction**

- *MacQuesten General Contracting, Inc. v. HCE, Inc.*: General contractor sued subcontractor for deficient performance, and subcontractor counterclaimed for unpaid invoices. Judge Francis conducted all proceedings, including a jury trial, and ruled on post-trial motions.

- *Gold State Flooring Specialist, Inc. v. Manshul Const. Corp.*: This case concerned disputes between a general contractor and a subcontractor over the validity of incidentals and backcharges. Judge Francis conducted a bench trial and entered judgment.

- **Employment Law**

Discrimination, Retaliation, Harassment and Title VII

- **Age Discrimination**

- Mediation: multi-claimant discrimination matter in which security personnel for sports league alleged they had been terminated on the basis of their age and had been denied appropriate wages under the Fair Labor Standards Act.
- *Shea v. Iceland Air*: Plaintiff brought this action under the Age Discrimination in Employment Act (ADEA), alleging that he had been unlawfully terminated because of his age. Judge Francis conducted pretrial proceedings and presided over the trial, and after the jury found in favor of the plaintiff, Judge Francis ordered the plaintiff's reinstatement.

- **Disability Discrimination**

- Mediation: employment discrimination matters involving claims of discrimination based on gender, race and disability in violation of Title VII, the Americans with Disabilities Act (ADA), the Family and Medical Leave Act (FMLA), the NYS Human Rights Law, and the NYC Human Rights Law, among others.
- *McGrath v. Thomson Reuters*: Plaintiff alleged discrimination in employment on the basis of religion, age and disability. Summary judgment was granted to defendant on Judge Francis' recommendation.

- **Gender and Pregnancy Discrimination**

- Mediation: claims of former investment management vice president of alleged harassment (hostile work environment) and retaliation on the basis of her gender and pregnancy, and alleged interference with her protected leave under the FMLA.
- Mediation: matter involving allegations of sexual harassment in employment resulting in constructive discharge.
- Mediation: claims of negligence involving alleged failure of employer hotel to prevent harassment of employee by hotel tenant.
- *Chen-Oster v. Goldman, Sachs & Co.*: The plaintiffs in this class action asserted that the defendant's promotion processes discriminated against women. Judge Francis supervised pretrial proceedings and issued rulings on the enforceability of arbitration clauses, the admissibility of expert opinions, and class certification.
- *EEOC v. Vamco Sheet Metals, Inc.*: Plaintiff alleged that defendant had discriminated against female applicants and employees on the basis of gender in violation of Title VII. Judge Francis supervised pretrial proceedings and issued decision allowing intervention by plaintiffs asserting New York City Human Rights Law claims and claims of failure to accommodate breastfeeding.

- **Race & National Origin Discrimination**

- Arbitration: involving allegations of race and ethnicity discrimination by employees who were not rehired after COVID-19 pandemic restrictions were lifted.
- Mediation: claims of public employee who alleged he had been denied promotion because of his race and ethnicity.
- Mediation: matter involving claims of race discrimination and retaliation for recommending diversity training.
- *United States v. New York City Department of Education*: This action, together with related individual actions, alleged racial discrimination against teachers by the principal of a New York City school. Judge Francis was responsible for pretrial proceedings and recommended determinations of dispositive motions.
- *Gordon v. City of New York*: In this Title VII disparate treatment and disparate impact case, plaintiff, an attorney, alleged that the New York City Law Department discriminated against its employees on the basis of race. Judge Francis was responsible for all pretrial proceedings.
- *Horsford v. The Salvation Army*: Plaintiff brought this Title VII action alleging that she had been discriminated against in promotion and unlawfully terminated on the basis of her national origin. Judge Francis presided over a jury trial that resulted in a verdict for the defendants.
- **Religious Discrimination**
 - Arbitration: involving allegations that pharmaceutical employee was discriminated against and denied a reasonable accommodation on the basis of his sincerely held religious beliefs when he was terminated due to his refusal to be vaccinated against COVID-19.
 - Mediation: claims of employee that she was bypassed for promotions and paid a lower salary on the basis of her race and retaliated against after seeking a religious accommodation.

Fair Labor Standards Act (FLSA/Wage and Hour)

- Arbitration: involving matter in which manual worker alleged he was not paid weekly as required by New York Labor Law.
- Mediation: involving widow's allegations that late husband's employer owed him wages under the FLSA and had created working conditions that drove him to suicide on the job.
- *Hoffman v. Ighodaro*: Building superintendents and porters brought claims of FLSA violations. Judge Francis conducted pretrial proceedings and granted conditional collective action status.
- *Copantitla v. Fiskardo Estiatorio, Inc.*: Restaurant workers brought claims for FLSA violations. Judge Francis conducted pretrial proceedings and assessed whether proposed defendant was joint employer.
- *Agerbrink v. Model Service LLC*: Plaintiff, a model, brought putative class action against modeling agency alleging violations of FLSA and contract. Judge Francis supervised all pretrial proceedings and discovery. Case settled on individual basis.

- *Guan Ming Lin v. Benihana National Corp.*: Plaintiff, a delivery person, asserted FLSA claims based on unpaid wages and overtime. Judge Francis recommended denying collective action status pending discovery but allowing plaintiff to obtain information concerning other employees. The recommendation was adopted.
- *Rosas v. Alice's Tea Cup, LLC*: Employees brought claims for unpaid overtime and spread of hours. Judge Francis supervised pretrial proceedings and issued determinations regarding the discoverability of plaintiffs' immigration status and one defendant's status as an employer.
- *Cano v. DPNY, Inc.*: Employees claimed violations of minimum wage and overtime requirements. Judge Francis supervised discovery and issued ruling regarding franchisor's status as joint employer under the economic reality test.
- *Acosta v. Manna 2nd Avenue LLC*: The U.S. Department of Labor commenced this action asserting a variety of wage and hour violations against defendants. Judge Francis determined on summary judgment that certain workers were not exempt from minimum wage requirements and that others were denied appropriate overtime. In a bench trial, Judge Francis ruled that the violations were willful.

Whistle Blower

- Arbitration: alleged breach of settlement agreement related to whistleblower matter.
- Mediation: claims of sexual harassment, FMLA interference and retaliation, pregnancy discrimination, and whistleblower retaliation.

Wrongful Termination

- Arbitration: member of tripartite arbitral panel in ICDR-administered matter in which claimant alleged he was wrongfully terminated and slandered by employer bank that allegedly made him the scapegoat for the bank's regulatory violations.
- Arbitration: matter in which former customer representative of investment company alleged age discrimination, breach of contract, and fraud in connection with his discharge.

• **Estate Probate Trusts**

- Arbitration: matter in which estate of artist sought to recover his work, which had been posted as security.
- Mediation: intra-family dispute involving millions of dollars in assets owned by decedent who was murdered.

• **Insurance**

- Arbitration: Chair of tripartite arbitral panel in multi-claimant case involving insurable interest in investment product.
- Special Discovery Master: ruled on privilege issues in insurance case involving hundreds of millions of dollars in allegedly damaged artworks.
- Mediation: in class action involving allegations that defendant improperly increased its cost of insurance rates; achieved settlement with value in excess of \$100 million.
- *State Farm Mutual Automobile Insurance Company v. Fayda*: The plaintiff insurer filed a RICO action alleging that the defendant medical providers had submitted false claims for

procedures that were either unnecessary or never performed. Judge Francis supervised discovery and made determinations as to its scope, including disclosure of defendant's assets and income.

- *Danaher Corp. v. Travelers Indem. Co.*: Plaintiff insured brought an action seeking a declaratory judgment that its insurers owed a duty to defend various asbestos claims. Judge Francis supervised discovery and, after the duty to defend had been established, determined the attorneys' fees owed to the insured.
- *U.S. Bank Nat. Ass'n v. PHL Variable Ins. Co.*: The owner of multiple universal life policies alleged that defendant insurer improperly calculated the cost of insurance, thus illegally increasing plaintiff's premiums. Judge Francis dealt with numerous discovery disputes, including the obligation to provide a damages calculation, designation of a 30(b)(6) witness and the scope of discovery.

- **Intellectual Property**

Copyright

- Arbitration: dispute over alleged contractual and intellectual property rights to sales made on web platform.
- Mediation-Arbitration: copyright infringement case involving gaming software.
- Mediation: claims of copyright infringement, misappropriation of trade secrets and breach of contract against former employee of claimant involving proprietary software.
- *Gary Friedrich Enterprises, LLC v. Marvel Enterprises, Inc.*: Author alleged that comic book publisher misappropriated "Ghost Rider" character and stories. Judge Francis supervised all pretrial proceedings and issued determinations on amendment of the pleadings and discovery disputes.
- *Jamie Music Publishing Co. v. Roc-A-Fella Records, LLC*: Dispute over the copyright to musical composition "Yes, I'm Ready." Judge Francis was responsible for all pretrial proceedings, which included allowing the intervention of the composer, and ultimately mediated a resolution.
- *Wu v. Pearson Education Inc.*: Plaintiff, a photographer, alleged that educational publisher used his photos in subsequent editions of text without permission, in violation of his copyright. Judge Francis conducted all pretrial proceedings, including ruling on the propriety of defendant's communications with putative class members.

Licensing

- Arbitration: dispute over scope of license for lighting product design.
- Arbitration: member of tripartite arbitral panel concerning multi-million-dollar claim arising from international media licensing agreement.
- Arbitration: concerning multi-million-dollar licensing fees allegedly owed by entertainment venue.

Patent

- Mediation: patent infringement action following remand from Federal Circuit in case involving patents for technology of isothermal titration calorimeters used to measure temperature differentials created by chemical reactions.

- Mediation: claim for indemnification with respect to alleged third-party patent infringement claims in connection with entertainment communications technology.
- Mediation: contract dispute involving alleged failure of academic institution to prosecute professor's patent application.
- *Bayer Schering Pharma AG v. Sandoz, Inc.*: Plaintiff patent-holder brought action against generic drug makers alleging their Abbreviated New Drug Applications (ANDAs) violated plaintiff's patents. Judge Francis was responsible for pretrial determinations.
- *On Track Innovations Ltd. v. T-Mobile USA, Inc.*: Plaintiff alleged infringement of its patent for hybrid communication between devices, both with and without contact. Judge Francis ruled on a motion to add a claim of inducing infringement.
- *Pamlab, L.L.C. v. Macoven Pharmaceuticals, L.L.C.*: Plaintiff alleged that defendant had infringed its patent for a technology for producing medical food product. Judge Francis determined plaintiff's motion for a preliminary injunction, after which the case was settled.
- *Convolve, Inc. v. Compaq Computer Corp.*: Plaintiffs alleged that defendants had infringed their patents for computer disk drive technology related to switching between quicker and quieter modes of operation. Judge Francis was responsible for pretrial proceedings, which included determinations of privilege and issues of preservation of ephemeral data.
- *In re Rivastigmine Patent Litigation*: In this multidistrict litigation (MDL), the parties disputed the patent rights to an Alzheimer's medication. Judge Francis supervised discovery, issuing decisions involving foreign privileges and amendment of pleadings, among other things.

Trademark

- Mediation: claims against multiple defendants following District Court's summary judgment decision in trademark/trade dress infringement case involving sale in United States of pharmaceuticals packaged for foreign markets.
- *A.V.E.L.A., Inc. v. Estate of Monroe*: The parties asserted competing rights in the image of Marilyn Monroe. Judge Francis was responsible for all pretrial proceedings, including resolving discovery disputes.
- *Lifeguard Licensing Corp. v. Kozak*: Plaintiff sued for infringement of its LIFEGUARD trademark on apparel. Judge Francis supervised discovery and issued determinations on issues including the admissibility of expert reports based on consumer surveys.
- *Cat3, LLC v. Black Lineage, Inc.*: Plaintiff owner of SLAMXHYPE trademark on apparel sued owner of FLASHXHYPE mark for infringement. Judge Francis presided over pretrial proceedings and issued a decision regarding spoliation where the defendant allegedly altered the file extension of emails before producing them in discovery.
- *Gucci America, Inc. v. Gucci*: Trademark owner sued founder's widow for infringement of mark. Judge Francis supervised discovery and decided motion for contempt of temporary restraining order.
- *Alfa Corp. v. OAO Alfa Bank*: Plaintiff contended that defendant's use of the name "Alfa" in the financial services industry infringed plaintiff's trademark. Judge Francis ruled on the

admissibility of expert evidence, including testimony about the transliteration of defendant's trade name from Russian.

- *Brass Construction v. Muller*: Dispute between former members of funk band to rights to use band's trade name. Judge Francis supervised discovery, presided over a jury trial and determined post-trial motions.
- *Manhattan Review LLC v. Yun*: Plaintiff sued former partner who created competing business, alleging breach of contract, breach of fiduciary duty, trademark infringement and related claims. Judge Francis ruled on numerous pretrial matters, and the case was ultimately dismissed on his recommendation because plaintiff, having been formally dissolved, lacked the capacity to sue.

- **Life Sciences**

- Tribunal Expert: appointed by arbitration panel to recommend rulings on privilege issues in international pharmaceutical patent license case.
- Special Master: appointed to oversee remedial discovery following determination that defendant's prior counsel had withheld or failed to produce key relevant documents in antitrust matter involving pharmaceuticals.
- Mediation: action brought by pharmaceutical manufacturer against wholesaler allegedly selling counterfeit HIV medications.

- **Maritime Admiralty**

- *In re Horizon Cruises Litigation*: Passengers stricken with Legionnaires' disease on cruise brought action against cruise line and manufacturer of vessel's spa. Judge Francis tried bellwether case before jury to determine liability, tried damages claim between co-defendants before jury and tried or settled individual damage claims. Issues included availability of punitive damages in admiralty.
- *MCC Non Ferrous Trading Inc. v. AGCS Marine Ins. Co.*: The plaintiff in this case sought payment from its marine insurer for missing cargo; the insurer denied coverage on grounds that the cargo had never been loaded. Judge Francis denied cross-motions for summary judgment, and the case settled.
- *Cedar Petrochemicals, Inc. v. Dongbu Hannong Chemical Co., Ltd.*: Plaintiff sought damages for delivery of 2,000 tons of liquid phenol that allegedly did not meet specifications. Judge Francis was responsible for pretrial proceedings and issued determinations on the admissibility of expert testimony and on sanctions for failure to preserve the phenol.

- **Personal Injury**

- Special Discovery Master: issued rulings on disputes over privilege issues and scope of discovery in matter brought by investors in connection with explosion of gas pipeline.
- Mediation: case involving allegations of date rape brought under New York Adult Survivors Act.
- Mediation: involving claims under the New York Child Victims Act for alleged abuse of adolescent by physician.

- *Corbin v. Grand Union Co.*: Slip-and-fall case in which the plaintiff alleged that the defendant negligently left a liquid substance on the floor of its store. Judge Francis conducted a bench trial and made determinations regarding proximate cause and damages.
- *Kelly v. J.C. Penney Co.*: In this negligence action, plaintiff alleged that when her stroller hit an obstacle in defendant's store, her child was propelled out, causing him injury. Judge Francis denied defendant's motion for summary judgment, and the case subsequently settled.
- *Cornelisse v. United States*: The plaintiff tripped and fell while observing an exhibit at the Cooper-Hewitt Museum and alleged that the cause was the negligent design of the platform on which the exhibit was situated. Judge Francis conducted a bench trial and rendered judgment.
- *Protect-A-Bub USA, LLC v. D'Arcy*: Plaintiff, a manufacturer of sunshades for strollers, alleged that its business had been defamed by the defendant, a competitor. Judge Francis was responsible for all aspects of the case and ultimately issued a determination permitting dismissal without prejudice.
- *Connolly v. Wood-Smith*: Former counsel to art gallery sued for defamation and tortious interference following termination of her relationship with gallery. The action was dismissed in part based on Judge Francis' recommendation.
- *Sang Lan v. Time Warner, Inc.*: Injured Olympic gymnast asserted defamation claims against family that housed her during her recovery. Judge Francis supervised discovery and issued several determinations, including on sanctions.

- **Product Liability**

- *Cohalan v. Genie Industries, Inc.*: The plaintiff in this case was operating a personal lift when it tipped over, injuring him. He brought a products liability action against the manufacturer of the lift. Judge Francis conducted pretrial supervision and determined the discoverability of designs of similar lifts.
- *In re Fosamax Products Liability Litigation*: The plaintiffs in this multidistrict (MDL) products liability action alleged that defendant's anti-osteoporosis medication caused deterioration of the jawbone. Judge Francis was responsible for resolving pretrial matters, including disputes over depositions and third-party subpoenas

- **Professional Liability**

- Mediation: legal malpractice claims arising out of failed patent application.
- *King v. Fox*: Plaintiff, a member of the band Lynyrd Skynyrd and composer of "Sweet Home Alabama," sued his former attorney for breach of fiduciary duty for collecting allegedly unearned fees. Judge Francis determined a variety of issues regarding the attorney-client relationship and conducted a bench trial on defendant's counterclaim in which the jury found the fee arrangement to be unconscionable.
- *Dooley v. Columbia Presbyterian Medical Center*: Plaintiff alleged that defendants committed medical malpractice by leaving a catheter in his body during spinal surgery.

Judge Francis made pretrial rulings regarding the timeliness of adding the anesthetist as a defendant and the admissibility of prior complaints against the surgeon.

- *Marson v. United States*: Plaintiff asserted that he suffered visual impairment as a consequence of medications prescribed by Veterans Administration physicians. Judge Francis conducted a bench trial and entered judgment.

- **Securities**

- *Federal Housing Finance Agency v. JPMorgan Chase & Co.*: This was one of more than a dozen cases filed by the FHFA against major financial institutions, alleging that they had negligently or fraudulently failed to use proper underwriting procedures in issuing residential mortgage-backed securities. Judge Francis mediated settlements in all the cases, save one, with settlements ranging up to several billion dollars.
- *In re MF Global Holdings Ltd. Investment Litigation*: This consolidated action concerned the collapse of MF Global, the investment business founded by former New Jersey senator Jon Corzine. Investors in the business brought securities fraud claims, while customers charged commodities fraud. Judge Francis determined several discovery issues and mediated a global resolution of all claims.
- *Royal Park Investments SA/NV v. U.S. Bank National Association*: Plaintiff, an assignee of residential mortgage-backed securities held in trust, sued the trustee when the value of the investments plummeted. Judge Francis was responsible for pretrial supervision and issued determinations relating to foreign discovery, the scope of relevant information, designation of deponents and sanctions.
- *Mortgage Resolution Servicing, LLC v. JPMorgan Chase Bank, N.A.*: This case arose out of the sale by defendant of portfolios of underperforming residential loans to plaintiffs. Plaintiffs alleged that the sale was fraudulent and that the defendant thereafter interfered with plaintiffs' ability to collect on the loans. Judge Francis supervised pretrial matters, resolving issues concerning the scope of discovery relative to a related qui tam action.

Honors, Memberships, and Professional Activities

- Completed Virtual ADR training conducted by the JAMS Institute, the training arm of JAMS
- New York City Bar Association
 - Current Activity: Labor & Employment Committee
 - Previous Activities: Professional Responsibility Committee, Federal Courts Committee, Social Welfare Law Committee, Disability Rights Committee
- New York State Bar Association
 - Former Member, Committee on the Judiciary
- United States Court of Appeals for the Second Circuit
 - Former Member, History and Commemorative Events Committee
- U.S. District Court for the Southern District of New York
 - Chief Magistrate Judge, 1998–2000

- Former Member: Grievance Committee, Committee on *Pro Se* Litigation, Criminal Justice Advisory Board, Equal Opportunity Committee
- The Sedona Conference
 - Steering Committee, Working Group 6 (International Electronic Information Management, Discovery and Disclosure)
- Georgetown Advanced E-Discovery Institute
 - Member, Advisory Committee
- Electronic Discovery Reference Model
 - Member, Global Advisory Board
- City University of New York School of Law Foundation
 - Board Member
- Bar Admissions
 - New York, 1979
 - U.S. District Court, S.D.N.Y., 1979
 - U.S. District Court, E.D.N.Y., 1980
 - U.S. Court of Appeals for the Second Circuit, 1980

Background and Education

- Distinguished Lecturer, City University of New York School of Law, 2017–2020
 - Taught Civil Procedure, Evidence, Federal Courts, Constitutional Torts, Electronic Discovery
- United States Magistrate Judge, S.D.N.Y., 1985–2017
 - Chief Magistrate Judge, 1998–2000
- Adjunct Professor, Fordham University School of Law, 2003–2017
- Staff Attorney, Civil Appeals & Law Reform Unit, The Legal Aid Society of New York, 1979–1985
 - Director, Disability Rights Unit
- Law Clerk, Hon. Robert L. Carter, U.S. District Court, S.D.N.Y., 1978–1979
- J.D., Yale Law School, 1978
 - Editor, *Yale Law Journal*
- M.P.P., John F. Kennedy School of Government, Harvard University, 1978
- B.A., *summa cum laude*, Yale College, 1974
 - Phi Beta Kappa